

**Regulation to Establish a  
Statewide Portable Equipment Registration Program  
(As Adopted March 27, 1997, with Amendments)**  
California Air Resources Board

Article 5 and sections 2450 - 2465, Title 13, California Code of Regulations

## Article 5. Portable Engine and Equipment Registration

### § 2450. Purpose.

This regulation establishes a statewide program for the registration and regulation of portable engines and engine-associated equipment (portable engines and equipment units) as defined herein. Portable engines and equipment units registered under the Air Resources Board program may operate throughout the State of California without authorization or permits from air quality management or air pollution control districts (districts). This regulation preempts districts from permitting, registering, or regulating portable engines and equipment units registered with the Executive Officer of the Air Resources Board.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

### § 2451. Applicability.

- (a) Except for (d) of this section, registration under this regulation is voluntary for owners and operators of portable engines or equipment units.
- (b) This regulation applies to portable engines and equipment units. Except as provided in paragraph (c), any portable engine or equipment unit, as defined in section 2452 may register under this regulation. Examples include, but are not limited to:
  - (1) portable equipment units driven solely by portable engines including confined and unconfined abrasive blasting, Portland concrete batch plants, sand and gravel screening, rock crushing, and unheated pavement recycling and crushing operations;
  - (2) consistent with section 209(e) of the federal Clean Air Act, engines used in conjunction with the following types of portable operations: well drilling, service or work-over rigs; power generation, excluding cogeneration; pumps; compressors; diesel pile-driving hammers; welding; cranes; woodchippers; dredges; equipment necessary for the operation of portable engines and equipment units; and military tactical support equipment.

[Note: Under section 209 (e)(1) of the federal Clean Air Act [42 U.S.C. 7543 (e)(1)], California is preempted from establishing emission standards or other requirements related to the control of emission (other than in-use operational controls) for engines under 175 horsepower used in new farm and construction

operations, as defined by the U.S. EPA in 40 Code of Federal Regulations (CFR) Part 85, Subpart Q, Section 85.1601 et. Seq. [see 59 Fed. Reg. 36969 (July 20, 1994)]. Federal preemptions should only affect engines less than 175 brake horsepower used in construction operations because as stated in section (c)(2) below, California law exempts agricultural operations from permit and registration programs. Accordingly, references to the federal preemptions as they apply to this regulation will refer to requirements to construction equipment using engines less than 175 brake horsepower.

See *Engine Manufacturers Association v. EPA*, (88 F.3d1075 [D.C. Cir. 1996]). Under section 209 (e)(2) [42 U.S.C. 7543 (e)(2)], of the CAA, California is required to receive authorization from the U.S. EPA prior to enforcing its regulations for nonroad equipment not otherwise preempted under section 209 (e)(1). See *Engine Manufacturers Association*, (supra). ARB has to date received authorization for regulations covered in Title 13, California Code of Regulation sections 2400-2407 (see 54 Fed. Reg. 37440 [July 20, 1995]) and sections 2420-2427 (see 59 Fed. Reg. 48981 [September 21, 1995]).

(c) The following are not eligible for registration under this program:

- (1) any engine used to propel mobile equipment or a motor vehicle of any kind;
- (2) any portable engine or equipment unit used exclusively in agricultural operations, as defined in California Health and Safety Code section 42310 (e);
- (3) any engine or equipment unit not meeting the definition of portable as defined in section 2452 (w) of this regulation;
- (4) any equipment unit determined by the Executive Officer to qualify as part of a stationary source permitted by a district; and
- (5) any portable engine or equipment unit subject to an applicable federal New Source Performance Standard or Maximum Achievable Control Technology standard, or National Emissions Standard for Hazardous Air Pollutants; and
- (6) any portable engine or equipment unit operating within the boundaries of the California Outer Continental Shelf and State Territorial Waters.

(d) In the event that the owner or operator of a portable engine or equipment unit elects not to register under this program, the unregistered portable engine or equipment unit shall be subject to district permitting requirements pursuant to district regulations. However, registration under this program is mandatory for those portable engines rated at 50 brake horsepower or greater that are located in a district having a permit or registration program that establishes emission standards or emission limits applicable to portable engines, and the Executive Officer has determined that the district program has been preempted by federal law.

- (1) For the purpose of this provision, a permit or registration program applicable to portable engines is defined as a program which establishes, emission control technology requirements, in-use operational controls (e.g., daily or annual emission limits), or proposed control measures contained in the State Implementation Plan.
- (2) Upon determining that a district program has been preempted as to specific engines by the federal Clean Air Act, the Executive Officer will issue an Executive Order setting forth such findings. Affected owners and/or operators of portable engines will be notified within 30 days by the ARB and/or districts of the issuance of the Executive Order and shall, within 180 days of issuance of the Executive Order, submit an application for registration under this regulation. An owner or operator of portable engines that are required to register pursuant to this section may elect to use existing daily and annual emission limit permit conditions of the district in which the portable engine is to be operated, in place of the daily and annual requirements of this regulation. Any daily and hourly emission limits of a district that are used in lieu of this regulation's limits are only valid during operation in that district. If the engine is operated in a district that previously did not have a permit program, the daily and annual requirements of this regulation will apply. All other requirements of this regulation are applicable to the portable engine.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

§ 2452. Definitions.

- (a) **Air Contaminant** means any discharge, release, or other propagation into the atmosphere which includes, but is not limited to, smoke, dust, soot, grime, carbon, fumes, gases, odors, particulate matter, acids, or any combination thereof.
- (b) **ARB** means the California Air Resources Board.
- (c) **Construction Equipment** means equipment that uses an engine and that is primarily used (as defined below) in construction and operated at commercial construction sites.
- (d) **District** means an air pollution control district or air quality management district created or continued in existence pursuant to provisions of Part 3 (commencing with section 40000) of the California Health and Safety Code.

- (e) **Emergency** means any situation arising from sudden and reasonably unforeseen natural disaster such as earthquake, flood, fire, or other acts of God, or other unforeseen events beyond the control of the portable engine or equipment unit operator, its officers, employees, and contractors that threaten public health and safety and that requires the immediate temporary operation of portable engines or equipment units to help alleviate the threat to public health and safety.
- (f) **Engine** means any piston driven internal combustion engine.
- (g) **Equipment Unit** means equipment that emits air contaminants over and above those emitted from the portable engine and is associated with, and driven solely by, any portable engine. Equipment units may include equipment necessary for the operation of a portable engine (e.g., fuel tanks).
- (h) **Equivalent Replacement** means a substitution of one or more registered portable engine(s) or equipment unit(s) with a portable engine or equipment unit that is intended to perform the same or similar function as the original portable engine or equipment unit, and where the following conditions exist:
  - (1) the replacement engine or equipment unit results in equal or lower air contaminant emissions than the existing engine or equipment unit (or sum of existing engines or equipment units) expressed as a mass per unit time (limitations on capacity or hours of operation shall not be taken into account in qualifying for lower air contaminant emissions);
  - (2) the replacement engine or equipment unit meets the emission control technology requirements of this article contained in section 2456 and 2457;
  - (3) the rated brake horsepower of the replacement engine does not exceed the rated brake horsepower of the existing engine (or sum of existing engines), by more than 20 percent. For every percentage point increase of the rated brake horsepower, there shall be an associated decrease in emissions of nitrogen oxides, expressed as a mass per unit time, equal to or exceeding two percentage points; and
  - (4) the manufacturer's maximum rated capacity of the replacement equipment unit does not exceed the maximum rated capacity of the existing equipment unit.
- (i) **Executive Officer** means the Executive Officer of the California Air Resources Board or his designee.
- (j) **Farm Equipment** means equipment that uses an engine and that is primarily used (as defined below) in the commercial production and or commercial harvesting of food, fiber, wood, or commercial organic products or in the processing of such products for further use on a farm.

- (k) **Hazardous Air Pollutant (HAP)** means any air contaminant that is listed pursuant to section 112(b) of the federal Clean Air Act.
- (l) **Identical Replacement** means a substitution of a registered portable engine or equipment unit with another portable engine or equipment unit that has the same manufacturer, type, model number, manufacturer's maximum rated capacity, and rated brake horsepower; and is intended to perform the same or similar function as the original portable engine or equipment unit; and has equal or lower emissions expressed as mass per unit time; and meets the emission control technology requirements of sections 2455 through 2457 of this regulation.
- (m) **Location** means any single site at a building, structure, facility, or installation.
- (n) **Maximum Achievable Control Technology (MACT)** means any federal requirements promulgated as part of 40 CFR Parts 61 and 63.
- (o) **Maximum Rated Capacity** is the maximum throughput rating or volume capacity listed on the nameplate of the portable equipment unit as specified by the manufacturer.
- (p) **Maximum Rated Horsepower (brake horsepower); (bhp)** is the maximum brake horsepower rating specified by the portable engine manufacturer and listed on the nameplate of the portable engine.
- (q) **Military Tactical Support Equipment (TSE)** means equipment using a portable engine, including turbines, that meets military specifications, owned by the U.S. Department of Defense and/or the U.S. military services, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. Examples include, but are not limited to, internal combustion engines associated with portable generators, aircraft start carts, heaters and lighting carts.
- (r) **Modification** means any physical change in portable engine or equipment unit method of operation, or an addition to an existing portable engine or equipment unit, which may cause or result in the issuance of air contaminants not previously emitted. Routine maintenance and/or repair shall not be considered a physical change. Unless previously limited by an enforceable registration condition, a change in the method of operation shall not include:
  - (1) an increase in the production rate, unless such increase will cause the maximum design capacity of the portable equipment unit to be exceeded;
  - (2) an increase in the hours of operation;

- (3) a change of ownership; and
  - (4) the movement of a portable engine or equipment unit from one location to another;
- (s) **New Nonroad Engine** means a domestic or imported nonroad engine the equitable or legal title to which has never been transferred to an ultimate purchaser. Where the equitable or legal title to an engine is not transferred to an ultimate purchaser until after the engine is placed into service, then the engine will no longer be new after it is placed into service. A nonroad engine is placed into service when it is used for its functional purposes. The term “ultimate purchaser” means, with respect to a new nonroad engine, the first person who in good faith purchases a new nonroad vehicle or a new nonroad engine for purposes other than resale.
- (t) **New Source Performance Standard** means any federal requirement promulgated as part of 40 CFR Part 60.
- (u) **Non-operational** means a portable engine or equipment unit that an owner or operator has demonstrated to the satisfaction of the Executive Officer as residing in California but not operating. A portable engine or equipment unit determined to be non-operational may not operate under the registration program.
- (v) **Nonroad Engine** means:
- (1) Except as discussed in paragraph (2) of this definition, a nonroad engine is any engine:
    - (A) in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or
    - (B) in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
    - (C) that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
  - (2) An engine is not a nonroad engine if:
    - (A) the engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under

- section 202 of the federal Clean Air Act; or
- (B) the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the federal Clean Air Act; or
  - (C) the engine otherwise included in paragraph (1)(C) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three (or more) months each year.
- (w) **Portable** means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. For the purposes of this regulation, dredge engines on a boat or barge are considered portable. The engine or equipment unit is not portable if any of the following are true:
- (1) the engine or equipment unit or its replacement is attached to a foundation, or if not so attached, will reside at the same location for more than 12 consecutive months. Any engine or equipment unit such as back-up or stand-by engines or equipment unit, that replace engine(s) or equipment unit(s) at a location, and is intended to perform the same or similar function as the engine(s) or equipment unit(s) being replaced, will be included in calculating the consecutive time period. In that case, the cumulative time of all engine(s) or equipment unit(s), including the time between the removal of the original engine(s) or equipment unit(s) and installation of the replacement engine(s) or equipment unit(s), will be counted toward the consecutive time period; or
  - (2) the engine or equipment unit remains or will reside at a location for less than 12 consecutive months if the engine or equipment unit is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location at least three months each year; or



- (3) the engine or equipment unit is moved from one location to another in an attempt to circumvent the portable residence time requirements.

[The period during which the engine or equipment unit is maintained at a storage facility shall be excluded from the residency time determination.]

- (x) **Prevention of Significant Deterioration (PSD)** means any federal requirements promulgated as part of 40 CFR Part 52.
- (y) **Primarily Used** is a determination by U.S. EPA under section 209 (e) of the federal Clean Air Act, that 51 percent or more of a specific type of engine or equipment, with an engine under 175 maximum brake horsepower rating; is used in the farm and construction industries.
- (z) **Process** means any air contaminant-emitting activity associated with the operation of a portable engine.
- (aa) **Project** means one or more registered portable engines or equipment units operated at one location under the same or common ownership or control, and used to perform a single activity.
- (bb) **Registration** means issuance of a certificate by the Executive Officer acknowledging expected compliance with the applicable requirements of this regulation, and the intent by the owner or operator to operate said portable engine or equipment unit within the requirements established by this regulation as it pertains to portable engines and equipment units.
- (cc) **Rental Business** means a business where the principal use of its engines or equipment units is to temporarily rent or lease for profit, portable engines or equipment units to operators other than the owner(s) of the engine or equipment unit.
- (dd) **Renter** is a person who rents a portable engine or equipment unit from a rental business.
- (ee) **Resident Engine** is:
  - (1) a portable engine that at the time of applying for registration, has a current, valid district permit or registration issued in accordance with local district requirements on or before the effective date of this regulation; or
  - (2) a portable engine that resided in the State of California at any time during calendar year 1995 and an application for registration is submitted to the Executive Officer no later than one year from the effective date of this regulation; or

- (3) a portable engine where a permit or registration has not been granted by a district, but an application, accepted and deemed complete by the district prior to the effective date of this regulation, and an application for registration is submitted to the Executive Officer no later than one year from the effective date of this regulation; or
- (4) a portable engine where registration becomes mandatory pursuant to section 2451 (d) of this regulation.

[The owner or operator shall provide sufficient documentation to prove the portable engine's residency to the satisfaction of the Executive Officer. Examples of adequate documentation are existing permits issued by a district, tax records, and usage or maintenance records. With the exception of section 2456 (e)(8) of this regulation, an equivalent or identical replacement engine replacing a registered resident engine shall be treated as a resident engine.]

(ff) **Stationary Source** means any building, structure, facility or installation which emits any affected pollutant directly or as a fugitive emission. "Building", "structure", "facility", or "installation" includes all pollutant emitting activities which:

- (1) are under the same ownership or operation, or which are owned or operated by entities which are under common control;
- (2) belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material; and
- (3) are located on one or more contiguous or adjacent properties.

[For the purposes of this regulation a stationary source and nonroad engine are mutually exclusive.]

(gg) **Storage** means a warehouse, enclosed yard, or other area established for the primary purpose of maintaining portable engines or equipment units when not in operation.

(hh) **Transportable** means the same as portable.

(ii) **Volatile Organic Compound (VOC)** means any compound containing at least one atom of carbon except for the following exempt compounds: acetone, ethane, parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene), methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, methylene chloride (dichloromethane), methyl chloroform (1,1,1-trichloroethane), CFC-113 (trichlorotrifluoroethane), CFC-11

(trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), CFC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115 (chloropentafluoroethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane), HCFC-142b (chlorodifluoroethane), HCFC-124 (chlorotetrafluoroethane), HFC-23 (trifluoromethane), HFC-134 (tetrafluoroethane), HFC-125 (pentafluoroethane), HFC-143a (trifluoroethane), HFC-152a (difluoroethane), cyclic, branched, or linear completely methylated siloxanes, the following classes of perfluorocarbons:

- (1) cyclic, branched, or linear, completely fluorinated alkanes;
- (2) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (3) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (4) sulfur-containing perfluorocarbons with no unsaturations and with the sulfur bonds to carbon and fluorine, acetone, ethane, and parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene).

(jj) **U.S. EPA** means the United States Environmental Protection Agency.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

#### § 2453. Application Process.

- (a) In order for an engine or equipment unit to be considered for registration by the Executive Officer, the engine or equipment unit must be portable as defined in section 2452 (w) of this regulation and meet all applicable requirements established in this regulation.
- (b) An owner or operator of a registered portable engine or equipment unit is not required to complete a new application for an identical replacement and may immediately operate the identical replacement. Except for TSE, the owner or operator shall notify the Executive Officer in writing within five calendar days of replacing the registered portable engine or equipment unit with an identical replacement. Notification shall include company name, contact, phone number, registration certificate number of the portable engine or equipment unit to be replaced; and make, model, rated brake horsepower, serial number of the identical replacement; and applicable fees as required in section 2461. Misrepresentation of portable engine or equipment unit information and failure to meet the requirements of this article shall subject the owner or operator to section 2465.

- (c) Except for TSE, the owner or operator of a registered portable engine or equipment unit shall file a new application for registration, including the surrender of the registration certificate for the portable engine or equipment unit being replaced, and appropriate fees as required in section 2461, with the Executive Officer prior to operating the equivalent replacement. Failure to meet the requirements of this article prior to operating equivalent replacement may subject the owner or operator to section 2465 of this article.
- (d) For the purposes of registration under this article, an owner or operator of a portable engine or equipment unit shall file a complete application, pursuant to this regulation, with the Executive Officer in accordance with the following schedule:
  - (1) portable engines or equipment units with current, valid district permits issued prior to the effective date of this regulation, shall apply before January 1, 2001;
  - (2) resident engines or equipment units that do not have current, valid district permits issued prior to the effective date of this regulation no later than one year from the effective date of regulation;
  - (3) TSE residing within the state as of the effective date of this regulation, no later than six months from the effective date of this regulation; and
  - (4) all others may apply at any time.
- (e) The Executive Officer shall inform the applicant, in writing, if the application is complete or deficient. If deemed deficient, the Executive Officer shall identify the specific information required to make the application complete, according to the following schedule:
  - (1) within 45 days of receipt of an application, for applications received within one year after [the effective date of this regulation]; and
  - (2) within 30 days of receipt of an application, for applications received after one year following the effective date of this regulation.
- (f) The Executive Officer shall issue or deny registration according to the following schedule:
  - (1) within 180 days of receipt of an application, for applications received within one year after the effective date of this regulation; and
  - (2) within 90 days of receipt of an application, for applications received after one year following the effective date of this regulation.
- (g) Upon finding that a portable engine or equipment unit meets the requirements of this article, the Executive Officer shall issue a registration for the portable engine or equipment unit. The Executive Officer shall notify the applicant in writing that

the portable engine or equipment unit has been registered. The notification shall include a registration certificate(s), any conditions to ensure compliance with state and federal requirements, and a registration identification for each registered portable engine or equipment unit. Except for TSE, the registration identification label shall be affixed on the registered portable engine or equipment unit at all times, and the registration certificate shall be kept on the immediate premises with the portable engine or equipment at all times and made accessible to the Executive Officer or districts upon request. Failure to properly maintain registration identification shall be deemed a violation of this article.

- (h) Except for TSE, each application for registration and the appropriate fee(s) as specified in section 2461, shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:
  - (1) indication of portable engine or equipment unit status (e.g., resident, non-resident, non-operational, rental business, etc.);
  - (2) indication of “home” district, the district in which the portable engine or equipment unit operates most of the time (optional);
  - (3) the name of applicant, and a contact person including mailing address and telephone number;
  - (4) a brief description of typical portable engine or equipment unit use;
  - (5) detailed description, including portable engine or equipment unit make, model, manufacture year (for portable engines only), rated brake horsepower, throughput, capacity, emission control equipment, and serial number;
  - (6) necessary engineering data, emissions test data, or manufacturer’s emissions data to demonstrate compliance with the requirements as specified in sections 2455-2457;
  - (7) for resident engines, a copy of a current permit to operate or a registration certificate that was granted by a district prior to the effective date of this regulation, or other proof of California residency as described in section 2452 (ee); and
  - (8) the signature of the responsible official, and date of the signature.
- (i) For TSE, application for registration and the appropriate fee(s) as specified in section 2461, shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:
  - (1) the name of applicant, and a contact person including mailing address and telephone number;
  - (2) a brief description of typical portable engine or equipment unit use;

- (3) portable engine or equipment unit description, including type and rated brake horsepower; and
  - (4) the signature of responsible official and date of the signature.
- (j) Portable engines or equipment units owned and operated for the primary purpose of rental by a rental business shall be identified as rental at the time of application for registration and shall be issued a registration specific to the rental business requirements of this article. Portable engines or equipment units used primarily for purposes other than rental or not owned by a rental business shall not qualify for registration as a rental business. Misrepresentation of portable engine or equipment unit use in an attempt to qualify under the rental business definition shall subject the owner or operator to section 2465 of this article.
- (k) An owner or operator registering a portable engine or equipment unit as non-operational may choose to have the equipment evaluated for registration eligibility at the time the initial application is filed or at the time the portable engine or equipment unit is changing to operational status. Where an initial evaluation is performed, switching from non-operational status to operational status requires notification in writing to the Executive Officer of the change in operational status and payment of all applicable fees prior to operation. Where no initial evaluation is performed, switching from non-operational status to operational status requires a complete application to be filed and approved by the Executive Officer and payment of all applicable fees prior to operation.
- (l) Once registration is issued by the Executive Officer, any valid district permits or registrations for registered portable engines or equipment units are preempted by the statewide registration and are therefore considered null and void.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

#### § 2454. Registration Process.

- (a) The Executive Officer shall make registration data available to the districts (e.g., on the Internet).
- (b) The Executive Officer may conduct an inspection of a portable engine or equipment unit and/or require a source test in order to verify compliance with the requirements of this article prior to issuance of registration.
- (c) After obtaining registration in accordance with this article, the owner or operator of the registered portable engines or equipment units may operate within the

boundaries of the State of California so long as such portable engines or equipment units comply with all applicable requirements of this article and any other applicable federal or state law.

- (d) Districts shall provide the Executive Officer with written reports or electronic submittals via the Internet, describing any inspections and the nature and outcome of any violation of local, state or federal laws by the owner or operator of registered portable engines or equipment units. The Executive Officer will provide all districts with such information (e.g., on the Internet).

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

#### § 2455. General Requirements.

- (a) The emissions from portable engines or equipment units registered under this regulation shall not, in the aggregate, interfere with the attainment or maintenance of California or federal ambient air quality standards. The emissions from any one portable engine or equipment unit, exclusive of background concentration, shall not cause an exceedance of any ambient air quality standard. This paragraph shall not be construed as requiring portable engine or equipment unit operators to provide emission offsets for a portable engine or equipment unit registered under this regulation.
- (b) Portable engines or equipment units registered under this regulation shall comply with article 1, chapter 3, part 4, division 26, of the California Health and Safety Code, commencing with sections 41700.
- (c) Except for portable engines or equipment units permitted or registered by a district in which an emergency occurs, a portable engine or equipment unit operated during an emergency as defined in section 2452 (e) of this article, is considered registered under the requirements of this regulation for the duration of the emergency and is exempt from sections 2455 through 2459 of this article for the duration of the emergency provided the owner or operator notifies the Executive Officer within 24 hours of commencing operation. The Executive Officer may for good cause refute that an emergency under this provision exists. If the Executive Officer deems that an emergency does not exist, all operation of portable engines and equipment units covered by this provision shall cease operation immediately upon notification by the Executive Officer. Misrepresentation of an emergency and failure to cease operation under notice of the Executive Officer is a violation of this article and may subject the owner or operator to section 2465 of this article.
- (d) For the purposes of registration under this article, the owner or operator of a

registered portable equipment unit must notify the U.S. EPA and comply with 40 CFR 52.21 if:

- (1) the portable equipment unit is part of a facility defined as a major source under 40 CFR 51.166 or 52.21, and
  - (A) the facility is located within 10 kilometers of a Class I area; or
  - (B) the portable equipment unit, operating in conjunction with other registered portable equipment units, is part of the stationary source and would be defined as a major modification to the stationary source under 40 CFR 51.166 or 52.21; or
- (2) the portable equipment unit, operating in conjunction with other registered portable equipment units, would be defined as a major stationary source, as defined under 40 CFR 51.166 or 52.21.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

#### § 2456. Engine Requirements

- (a) For TSE, no air contaminant shall be discharged into the atmosphere, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is as dark or darker in shade as that designated as No. 2 on the Ringlemann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke designated as No. 2 on the Ringlemann Chart. No other requirements of this section are applicable to TSE.
- (b) A new nonroad engine rated less than 175 brake horsepower used in construction equipment as defined in 40 CFR Part 85, Subpart Q, section 85.1601 et seq. shall use only fuels meeting the standards for California motor vehicle fuels as set forth in chapter 5, division 3, Title 13, of the California Code of Regulations, commencing with section 2250; comply with the applicable daily and annual emission limits contained in section 2456 (i) of this article; and is exempt from further requirements of this section.
- (c) Diesel pile-driving hammers shall comply with the applicable provisions of section 41701.5 of the California Health and Safety Code and are otherwise exempt from further requirements of this section.
- (d) To be registered in the Statewide Registration Program, a registered portable



engine rated less than 50 brake horsepower shall comply with the most stringent requirements, if any, for its horsepower rating and year of manufacture set forth in 40 CFR Part 89 or Title 13 California Code of Regulations. If no emission standards exist for that brake horsepower and year of manufacture at the time of registration, the engine shall comply with the applicable daily and annual emission limits contained in section 2456 (i) of this article. No other requirements of this section are applicable to portable engines rated less than 50 brake horsepower.

- (e) Portable engines registered under this regulation shall:
- (1) comply with the applicable daily and annual emission limits contained in section 2456 (i) of this article;
  - (2) use only fuels meeting the standards for California motor vehicle fuels as set forth in chapter 5, division 3, Title 13, of the California Code of Regulations, commencing with section 2250;
  - (3) not exceed particulate matter emissions concentration of 0.1 grain per standard dry cubic feet corrected to 12 percent CO<sub>2</sub>;
  - (4) not discharge air contaminants into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringlemann 1 or equivalent 20 percent opacity;
  - (5) for an engine manufactured before January 1, 1996, meet the applicable requirements of Table 1, for compression-ignition engines or Table 2, for spark-ignition engines;
  - (6) for an engine manufactured on or after January 1, 1996, meet the most stringent emissions standard;
  - (7) except for an engine that qualifies as a resident engine, any portable engine, regardless of engine manufacture date, registering on or after July 1, 1998, meet the most stringent emissions standards for the applicable brake horsepower range specified for California- or federally-certified newly-manufactured engines; if no emissions standards exists, then the applicable requirements contained in Table 1 or Table 2 must be met;
  - (8) on or after July 1, 2001, except for change of ownership, applications filed for registration or replacement of a registered portable engine, meet the most stringent emissions standard; and
  - (9) after January 1, 2010, any registered portable engine rated 50 brake horsepower or above not previously meeting a federal or California standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations, meet the most stringent emissions standard (resident portable engine must reapply at this time and demonstrate compliance with the most stringent emissions standard).

For the purpose of sub-section (e), the most stringent emissions standard shall be the applicable emissions standard in effect at the time an application is deemed

complete and set forth in Title 13 of the California Code of Regulations for that engine rating. If no emissions standard exists under the California Code of Regulations, then the applicable emissions standard set forth in 40 CFR Part 89 shall apply. If no standard exists under the California Code of Regulations or 40 CFR Part 89, then the applicable requirements of Table 1 for compression-ignition engines or Table 2 for spark-ignition engines shall apply. Any engine meeting the most stringent emission standard, as defined above, is not subject to requirements (3) and (4) of sub-section (e).

- (f) Subject to Executive Officer approval, the owner or operator of a registered portable engine may obtain a temporary exemption, not to exceed 18 months in duration, from daily and annual emission limits, and recordkeeping and reporting requirements, by submitting a compliance plan (in a format to be specified by prior agreement with the Executive Officer) to replace the existing portable engine with a newly-manufactured engine or modify the existing portable engine to satisfy the requirements that have been set for new engines under 40 CFR Part 89 or Title 13 of the California Code of Regulations. For the purposes of this section, a compliance plan shall include at a minimum:

- (1) registration number of portable engine being replaced or modified;
- (2) a schedule of increments of progress, which will be taken to replace or modify the registered portable engine;
- (3) the proposed date of replacement or completion of modifications;
- (4) the name of applicant, and a contact person including mailing address and telephone number;
- (5) a brief description of typical portable engine use;
- (6) newly-manufactured portable engine description, including portable engine make, model, manufacture year, rated brake horsepower, emission control engine, and serial number;
- (7) detailed description of proposed modifications, including make and model of any add-on equipment;
- (8) all necessary engine engineering data, emissions test data, or manufacturer's emissions data to demonstrate compliance with the requirements as specified in section 2456; and
- (9) the signature of responsible official and date of the signature.

[An owner or operator may revise a compliance plan by submitting a modified plan to the Executive Officer at least 30 calendar days prior to the date of replacing or modifying the portable engine. The modified compliance plan shall not extend the temporary exemption from daily and annual emission limits for the registered portable engine beyond 18 months. Misrepresentation of portable engine information in the compliance plan or failure to comply with an approved compliance plan may result in the registration being revoked and the owner or

operator being subject to penalties.]

- (g) A registered portable engine owned and operated by a rental business and designated for use as a rental engine shall have operational and properly maintained non-resettable time meters or an alternate method, as approved by the Executive Officer, for purposes of complying with the requirements of section 2458.
- (h) Subject to Executive Officer approval, 4-degree injection timing retard is not required for compression-ignition engines if it can be demonstrated that such modification is technologically infeasible, may cause potential engine damage, or cause an exceedance of a pollutant standard (e.g., opacity limit). The Executive Officer shall consider appropriate documentation, including, but not limited to: cost effectiveness studies or engineering analyses. The Executive Officer may grant exemptions or require reduced injection timing (e.g., 3-, 2- or 1-degree) as determined appropriate on a case-by-case basis, for specific identical engines of the same make, model, model-year, and configuration.
- (i) Registered portable engines shall not exceed the following emission limits:
  - (1) 550 pounds per day per engine of carbon monoxide (CO);
  - (2) 150 pounds per day per engine of particulate matter less than 10 microns (PM<sub>10</sub>);
  - (3) 10 tons for each pollutant per district per year per engine;
  - (4) for resident engines operating in the SCAQMD, 100 pounds nitrogen oxides (NOx) per project per day [An owner may substitute SCAQMD permit or registration limits in effect on or before the effective date of this regulation (optional)];
  - (5) for nonresident engines, 100 pounds NOx per engine per day in all districts; and
  - (6) in lieu of (4) and (5) above, operation of a new nonroad engine rated at 750 brake horsepower or greater for which a federal or California standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations has not yet become effective, shall not exceed 12 hours per day.

[A portable engine meeting an applicable emissions standard, as set forth in Title 13 of the California Code of Regulations or 40 CFR Part 89, is exempt from the daily and annual emission limits specified above.]

- (j) Portable engines operated for dredging, deemed by the Executive Officer to operate on a continuous basis rather than intermittently on any given day, shall install selective catalytic reduction (SCR) or equivalent control technology as approved by the Executive Officer, that results in NO<sub>x</sub> emissions equal to or less than 130 parts per million dry volume corrected to 15 percent oxygen averaged over 15 minutes (1.7 grams per brake horsepower-hour). Portable engines operated for dredging deemed not to operate on a continuous basis shall meet the requirements for their respective ratings set forth in this section.
- (k) Registered TSE is exempt from district New Source Review and Title V programs, including any offset requirements. Further, emissions from registered TSE shall not be included in Title V or New Source Review applicability determinations.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

Table 1 Compression-ignition Engine Requirements\*

| Rated Brake Horsepower | Resident Engine  | Non-resident Engine  |
|------------------------|--|--|
| 50-116                 | 810 ppm <sub>dv</sub> NO <sub>x</sub> (10.5 g/bhp-hr)** or turbocharger or 4-degree injection timing retard***                             | 770 ppm <sub>dv</sub> NO <sub>x</sub> (10.0 g/bhp-hr)** or turbocharger and 4-degree injection timing retard***                            |
| 117-399                | 770 ppm <sub>dv</sub> NO <sub>x</sub> (10.0 g/bhp-hr)** or turbocharger and aftercooler/intercooler or 4-degree injection timing retard*** | 550 ppm <sub>dv</sub> NO <sub>x</sub> (7.2 g/bhp-hr)** or turbocharger and aftercooler/intercooler and 4-degree injection timing retard*** |
| 400-749                | 550 ppm <sub>dv</sub> NO <sub>x</sub> (7.2 g/bhp-hr)** or turbocharger and aftercooler/intercooler or 4-degree injection timing retard***  | 535 ppm <sub>dv</sub> NO <sub>x</sub> (7.0 g/bhp-hr)** or turbocharger and aftercooler/intercooler and 4-degree injection timing retard*** |
| 750+                   | 550 ppm <sub>dv</sub> NO <sub>x</sub> (7.2 g/bhp-hr)** or turbocharger and aftercooler/intercooler or 4-degree injection timing retard***  | 535 ppm <sub>dv</sub> NO <sub>x</sub> (7.0 g/bhp-hr)** or turbocharger and aftercooler/intercooler and 4-degree injection timing retard*** |

\* These requirements are in addition to requirements of section 2455 and 2456.

\*\* For the purpose of compliance with this article, ppm<sub>dv</sub> is parts per million NO<sub>x</sub> as NO<sub>2</sub> @ 15 percent oxygen averaged over 15 consecutive minutes. Limits of ppm<sub>dv</sub> are the approximate equivalent to the stated grams per brake horsepower hour limit based on assuming the engine is 35 percent efficient.

\*\*\* Requirements for 4-degree injection timing retard is not required where it can be demonstrated technologically infeasible to the satisfaction of the Executive Officer. (Refer to paragraph h)

Table 2 Spark-ignition Engine Requirements\*

| Engine Status | Pollutant Emission Limits or Control Technology                          |  |   |
|---------------|--|--|---|
|               | NO <sub>x</sub>  | VOC  | CO  |
| Resident      | 213 ppm <sub>dv</sub> NO <sub>x</sub> (4.0 g/bhp-hr)**<br>or catalyst*** | 800 ppm <sub>dv</sub> VOC (5.0 g/bhp-hr)<br>or catalyst*** | 25,344 ppm <sub>dv</sub> CO (288 g/bhp-hr)*<br>or catalyst*** |
| Non-Resident  | 80 ppm <sub>dv</sub> NO <sub>x</sub> (1.5 g/bhp-hr)**                    | 240 ppm <sub>dv</sub> VOC (1.5 g/bhp-hr)                   | 176 ppm <sub>dv</sub> CO (2.0 g/bhp-hr)                       |

\* These requirements are in addition to requirements of section 2455 and 2456.

\*\* For the purpose of compliance with this article, ppm<sub>dv</sub> is parts per million NO<sub>x</sub> as NO<sub>2</sub> @ 15 percent oxygen averaged over 15 consecutive minutes. Limits of ppm<sub>dv</sub> are the approximate equivalent to the stated grams per brake horsepower hour limit based on assuming the engine is 35 percent efficient.

\*\*\* The catalyst must provide a minimum of 80 percent control.

♣ At the request of the Executive Officer, CO modeling may be required to demonstrate compliance with ambient air quality standards.

§ 2457. Requirements for Portable Equipment Units

- (a) Emissions from a registered portable equipment unit, exclusive of emissions emitted directly from the associated portable engine, shall not exceed:
  - (1) 10 tons per year of any single criteria pollutant; and
  - (2) 82 pounds per day of PM<sub>10</sub>.
- (b) Portable equipment units shall also meet the following applicable requirements:
  - (1) Confined abrasive blasting operations:
    - (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringlemann 1 or equivalent 20 percent opacity;
    - (B) the particulate matter emissions shall be controlled using a fabric or cartridge filter dust collector;
    - (C) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the dust collection equipment; and
    - (D) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters.
  - (2) Concrete batch plants:
    - (A) all dry material transfer points shall be ducted through a fabric or cartridge type filter dust collector, unless there are no visible emissions from the transfer point;
    - (B) all cement storage silos shall be equipped with fabric or cartridge type vent filters;
    - (C) the silo vent filters shall be maintained in proper operating condition;
    - (D) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringlemann 1 or equivalent 20 percent opacity;
    - (E) open areas shall be maintained adequately wet to prevent fugitive emissions in excess of 20 percent opacity or Ringlemann 1;
    - (F) silo service hatches shall be dust-tight;
    - (G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the dust

- collection equipment; and
  - (H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters.
- (3) Sand and gravel screening, rock crushing, and pavement crushing and recycling operations:
  - (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringlemann 1 or equivalent 20 percent opacity;
  - (B) there shall be no visible emissions beyond the property line on which the equipment is being operated;
  - (C) all transfer points shall be ducted through a fabric or cartridge type filter dust collector, or shall be equipped with a wet suppression system maintaining a minimum moisture content of 4 percent by weight;
  - (D) particulate matter emissions from each crusher shall be ducted through a fabric dust collector, or shall be equipped with a wet suppression system which maintains a minimum moisture content of 4 percent by weight;
  - (E) all conveyors shall be covered, unless the material being transferred does not result in any visible particulate matter emissions;
  - (F) all stockpiled material shall be maintained at a minimum moisture content of 4 percent by weight, unless the stockpiled material does not result in any visible particulate matter emissions;
  - (G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the dust collection equipment; and
  - (H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters.
- (4) Unconfined abrasive blasting operations:
  - (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringlemann 2 or equivalent 40 percent opacity;
  - (B) only California Air Resources Board-certified abrasive blasting material shall be used;
  - (C) the abrasive material shall not be reused;

- (D) no air contaminant shall be released into the atmosphere which causes a public nuisance; and
- (E) all applicable requirements of Title 17 of California Code of Regulations shall also apply.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

§ 2458. Recordkeeping and Reporting.

- (a) Any registered portable engine that meets an applicable emissions standard as set forth in Title 13 of the California Code of Regulations or 40 CFR Part 89, including registered portable engines having obtained a temporary exemption pursuant to section 2456 (f) of this regulation, is exempt from the requirements of this section.
- (b) Except for a rental business and TSE, the owner of a registered portable engine, including engines otherwise preempted under section 209(e), or portable equipment unit shall maintain daily records for each registered portable engine and equipment unit. The daily records shall be maintained at a central place of business for two years, and made accessible to the Executive Officer or districts upon request. Daily records shall be maintained in a format approved by the Executive Officer and include, at a minimum, all of the following:
  - (1) portable engine or equipment unit registration number;
  - (2) month, day and year;
  - (3) the location(s) at which the portable engine or equipment unit was operated, identified by district, county, or specific location(s);
  - (4) for engines, either total fuel used in gallons per hour or day and an estimate of hours of operation, or actual hours of operation; and
  - (5) for equipment units, the total process weight or throughput.
- (c) The owner of a registered portable engine or equipment unit owned by a rental business and designated for the purpose of renting, shall maintain records for each transaction. The owner shall provide each person who rents the portable engine or equipment unit with a written copy of applicable requirements of this rule, including recordkeeping and notification requirements, as a part of the agreement. The records, including written acknowledgment by each renter of the portable engine or equipment unit of having received the above information, shall be maintained at a central location for two years, and made accessible to the Executive Officer or districts upon request. Records shall be maintained in a format approved by the Executive Officer and include, at a minimum, for each



registered portable engine or equipment unit all of the following:

- (1) portable engine or equipment unit registration number;
  - (2) dates portable engine or equipment unit left and returned to a rental yard;
  - (3) location of operation, identified by district, county, or specific location(s); and
  - (4) hours of operation for each rental period and estimation of hours operated per day.
- (d) Except for TSE, the owner of a registered portable engine or equipment unit shall provide the Executive Officer, in a format approved by the Executive Officer, within 60 days after the end of each calendar year all of the following information:
- (1) reporting year;
  - (2) for engines, quarterly summaries for each district or county of total fuel usage in gallons per quarter and an estimate of hours of operation, or total hours of operation per quarter, for each portable engine or equipment unit; and
  - (3) for equipment units, quarterly summaries for each district or county of total process weight or throughput.
- (e) For TSE, each military installation shall provide the Executive Officer in a format approved by the Executive Officer, within 60 days after the end of each calendar year, the number, type, and rating of registered TSE at each installation. Any variation of registered TSE to actual TSE shall be accounted for in this annual report. Any increase in the number of TSE at each military installation during the calendar year shall require the military installation to submit an application for registration for the additional TSE along with any applicable fees to the Executive Officer, within 60 days after the end of each calendar year.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

§ 2459. Notification.

- (a) If a registered portable engine or equipment unit will be in a district for more than five days, the owner/operator, or in the case of rental equipment (except as noted in (c) below), the renter shall notify the district in writing, via facsimile, or by telephone, within two working days of coming into the district. The notification shall include all of the following:
- (1) the registration number of the portable engine or equipment unit;
  - (2) the name and phone number of a contact person with information

- concerning the locations where the portable engine or equipment unit will be operated within the district; and
- (3) estimated time the portable engine or equipment unit will be located in the district.
- (b) If the district has not been notified as required in paragraph (a), because the owner or operator did not expect the duration of operation in the district to trigger the notification requirement, the owner or operator, or in the case of rental equipment (except as noted in (c) below), the renter shall notify the district within 12 hours of determining the portable engine or equipment unit will be operating in the district more than five days.
- (c) Owners and operators of registered portable engines rated less than 200 brake horsepower and designated by the Executive Officer for rental use by a rental business are not subject to notification requirements.
- (d) Owners and operators of TSE are not subject to notification requirements.
- (e) Owners and operators of registered portable engines or equipment units moving from one location to another location within the boundaries of the designated “home” district are not subject to notification requirements, providing the home district is identified at the time of registration.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

§ 2460. Testing.

- (a) In determining if a portable engine or equipment unit is eligible for registration, the Executive Officer may inspect a portable engine or equipment unit and/or require a source test, at the owners expense, in order to verify information submitted in the application.
- (b) After issuance of registration, the Executive Officer or district may at any time conduct an inspection of any registered portable engine or equipment unit in order to verify compliance with the requirements of this article. However, source testing of engines for compliance purposes shall not be required more frequently than once every three years (including testing at the time of registration), except where evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified. In no event shall the Executive Officer or district require source testing of a portable engine for which there is no applicable emission standard, emission limit or other emission related requirement contained in this regulation.

- (c) Testing shall be conducted in accordance with the following methods or other methods approved by the Executive Officer:

|                             |   |
|-----------------------------|---|
| Particulate Matter:         | ARB Test Method 5                                   |
| VOC:                        | ARB Test Method 100 or U.S. EPA Test Method 25A     |
| NOx:                        | ARB Test Method 100 or U.S. EPA Test Method 7E      |
| Carbon Monoxide:            | ARB Test Method 100 or U.S. EPA Test Method 10      |
| Oxygen:                     | ARB Test Method 100 or U.S. EPA Test Method 3A      |
| Gas Velocity and Flow Rate: | ARB Test Method 1 & 2 or U.S. EPA Test Method 1 & 2 |

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

§ 2461. Fees.

- (a) The Executive Officer shall assess and collect reasonable fees for registration, renewal, and associated administrative tasks, to recover the estimated costs to the Executive Officer for evaluating registration applications, and issuing registration documentation.
- (b) Fees shall be due and payable to the Executive Officer at the time an application is filed or as part of any request requiring a fee.
- (c) The owner or operator of a portable engine or equipment unit shall submit fees to the Executive Officer in accordance with Table 3.
- (d) An owner or operator of a registered portable engine or equipment unit may, at time of renewal, change from operational to non-operational status by notifying the Executive Officer in writing and paying the applicable fee of \$45.00.
- (e) An owner or operator of a non-operational portable engine or equipment unit evaluated for registration eligibility at the time of registration shall be assessed a fee of \$60.00 at the time of application. Prior to switching from non-operational to operational status, the owner or operator shall pay a fee of \$30.00.
- (f) An owner or operator of a non-operational portable engine or equipment unit not evaluated for registration eligibility at the time of registration shall be assessed a fee of \$30.00 at the time of application. Prior to switching from non-operational to operational, the owner or operator shall notify the Executive Officer by submitting an application including a fee of \$60.00. The Executive Officer shall verify that the portable engine or equipment unit meets the requirements of this

article prior to operation of the portable engine or equipment unit. Misrepresentation of portable engine or equipment unit information and failure to meet the requirements of this article may subject the owner or operator to revocation or suspension of registration and/or penalties under this article.

- (g) A district may collect an enforcement inspection fee of \$75.00 one time per calendar year for each registered portable engine or equipment unit inspected, unless for reasonable cause the district performs an inspection leading to determination of non-compliance with this regulation, or any applicable state or federal requirements. In this instance, the district may charge \$75.00 per portable engine or equipment unit for each inspection necessary for the determination and ultimate resolution of the violation. In no event shall the total fees exceed the actual costs, including staff time, to the district of conducting the investigations and resolving any violations.
- (h) If the registration is valid for more than three years, the renewal fee shall be the sum of the standard renewal fee of \$90.00 and a prorated fee of \$30.00 per year based on the number of years the registration exceeds three years.
- (i) Failure to pay fees when due may result in penalties. If no fee payment is received within 30 days of written notice, fee penalties ranging from \$15.00 to \$45.00 shall be assessed. Failure to pay within 90 days of written notice may result in cancellation of registration. Canceled registration may be reinstated by reapplying for registration and payment of all penalty fees within 90 days of written notice of cancellation. A portable engine or equipment unit without valid registration is subject to the rules and regulations of the district in which it operates.
- (j) The Executive Officer may consolidate renewal fees by prorating the renewal fees of multiple registered portable engines and equipment units.
- (k) Fees shall be periodically revised by the Executive Officer in accordance with the consumer price index, as published by the United States Bureau of Labor Statistics.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

**Table 3 Registration and Renewal Fees for Statewide Registration Program**

(Fees are per registered unit except where noted otherwise)

|    |   |            |
|----|---|------------|
| 1  | Registration  | \$90.00    |
| 2  | Military tactical support equipment   |            |
| a  | Registration of first 25 units (or portion thereof)   | \$1,500.00 |
| b  | Registration of every additional 50 units (or portion thereof)  | \$1,500.00 |
| 3  | Non-operational portable engines or equipment units   |            |
| a  | Without initial evaluation  | \$30.00    |
| b  | With initial evaluation   | \$60.00    |
| 4  | Change of status from non-operational to operational  |            |
| a  | Where initial evaluation has not been previously completed  | \$60.00    |
| b  | Where initial evaluation has been previously completed  | \$30.00    |
| 5  | Identical replacement   | \$15.00    |
| 6  | Equivalent replacement (treated as a new registration, fees are the same as above for new registration) |            |
| 7  | Renewal   |            |
| a  | Every 3 years per registered portable engine or equipment unit  | \$90.00    |
| b  | Pro-rated yearly per registered portable engine or equipment unit                                       | \$30.00    |
| c  | Non-operational 3 years (prorated @ \$10/year) per registered portable engine or equipment unit         | \$30.00    |
| d  | Change of status from operational to non-operational plus non-operational renewal                       | \$45.00    |
| 8  | Renewal for Military tactical support equipment   |            |
| a  | Renewal of first 25 units (or portion thereof)  | \$750.00   |
| b  | Renewal of every additional 50 units (or portion thereof)   | \$750.00   |
| 9  | Penalty fee for late payments per registered portable engine or equipment unit                          |            |
| a  | 30-60 days after receiving renewal notice   | \$15.00    |
| b  | 60-90 days after receiving renewal notice   | \$30.00    |
| c  | 90 days after receiving renewal notice  | \$45.00    |
| 10 | Modification to registered portable engine or equipment unit  | \$15.00    |
| 11 | Change of ownership per registered portable engine or equipment unit                                    | \$15.00    |
| 12 | Replacement of registration identification  | \$10.00    |
| 13 | District inspection fee per registered portable engine or equipment unit inspected                      | \$75.00*   |

\* Where multiple registered portable engines or equipment units are inspected at a given source, the district inspection fee shall be equal to the lesser of the actual cost, including staff time, for conducting the inspection or \$75 per registered portable engine or equipment unit inspected.

§ 2462. Duration of registration.

- (a) For registration applications received within one year after the effective date of this regulation, the Executive Officer may issue registration valid for more than three years in order to evenly distribute future renewals.
- (b) Except for registrations issued the first year, registrations and renewals will be valid for three consecutive years from date of issuance.
- (c) The Executive Officer shall mail the owner or operator of a registered portable engine or equipment unit a renewal invoice at least 60 days prior to the registration expiration.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

§ 2463. Suspension or revocation of registration.

- (a) The Executive Officer for just cause may suspend or revoke registration in any of the following circumstances:
  - (1) the holder of registration has violated one or more terms and conditions of registration or has refused to comply with any of the requirements of this article;
  - (2) the holder of registration has materially misrepresented the meaning, findings, effect or any other material aspect of the registration application, including submitting false or incomplete information in its application for registration regardless of the holder's personal knowledge of the falsity or incompleteness of the information;
  - (3) the test data submitted by the holder of registration to show compliance with this regulation have been found to be inaccurate or invalid;
  - (4) enforcement officers of the ARB or the Districts, after presentation of proper credentials, have been denied access, during normal business hours or hours of operation, to any facility or location where registered portable engines and equipment units are operated or stored and are prevented from inspecting such engines or equipment units as provided for in this article (the duty to provide access applies whether or not the holder of registration owns or controls the facility or location in question);
  - (5) enforcement officers of the ARB or the Districts, after presentation of proper credentials, have been denied access to any records required by this regulation for the purpose of inspection and duplication;
  - (6) the registered portable engine or equipment unit has failed in-use to comply

with the findings set forth in the registration. For the purposes of this section, noncompliance with the registration may include, but is not limited to:

- (A) a repeated failure to perform to the standards set forth in this article; or
  - (B) modification of the engine or equipment unit that results in an increase in emissions or changes the efficiency or operating conditions of such engine or equipment unit, without prior notice to and approval by the Executive Officer; or
- (7) the holder of registration has failed to take requested corrective action as set forth in a Notice of Violation or Notice to Comply within the time period set forth in such notice.
- (b) A registration holder may be subject to a suspension or revocation action pursuant to this section based upon the actions of an agent, employee, licensee, or other authorized representative.
  - (c) The Executive Officer shall notify each holder of registration by certified mail of any action taken by the Executive Officer to suspend or revoke any registration granted under this article. The notice shall set forth the reasons for and evidence supporting the action(s) taken. A suspension or revocation is effective upon receipt of the notification.
  - (d) A party having received a notice to revoke or suspend registration may request that the action be stayed pending a hearing under section 2464. In determining whether to grant the stay, the hearing officer shall consider the reasonable likelihood that the registration holder will prevail on the merits of the appeal and the harm the registration holder will likely suffer if the stay is not granted. The Executive Officer shall deny the stay if the adverse effects of the stay on the public health, safety, and welfare outweigh the harm to the registration holder if the stay is not granted.
  - (e) Once a registration has been suspended pursuant to (a) above, the holder of registration must satisfy and correct all noted reasons for the suspension and submit a written report to the Executive Officer advising him or her of all such steps taken by the holder before the Executive Officer will consider reinstating the registration.
  - (f) After the Executive Officer suspends or revokes a registration pursuant to this section and prior to commencement of a hearing under section 2464, if the holder of registration demonstrates to the Executive Officer satisfaction that the decision

to suspend or revoke the registration was based on erroneous information, the Executive Officer will reinstate the registration.

- (g) Nothing in this section shall prohibit the Executive Officer from taking any other action provided for by law for violations of the Health and Safety Code.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

## § 2464. Appeals.

### (a) Hearing Procedures

- (1) Any applicant for, or a holder of, registration whose application or registration has been denied, suspended, or revoked may request a hearing to review the action taken by sending a request in writing to the Executive Officer. A request for hearing shall include, at a minimum, the following:
  - (A) name of applicant or registration holder;
  - (B) registration number;
  - (C) copy of the Executive Order revoking or suspending registration or the written notification of denial;
  - (D) a concise statement of the issues to be raised, with supporting facts, setting forth the basis for challenging the denial, suspension, or revocation (mere conclusory allegations will not suffice);
  - (E) a brief summary of evidence in support of the statement of facts required in (D) above; and
  - (F) the signature of an authorized person requesting the hearing.
- (2) A request for a hearing shall be filed within 20 days from the date of issuance of the notice of the denial, suspension, or revocation.
- (3) A hearing requested pursuant to this section shall be heard by a qualified and impartial hearing officer appointed by the Executive Officer. The hearing officer may be an employee of the ARB, but may not be any employee who was involved with the registration at issue. In a request for hearing of a denial of registration, after reviewing the request for hearing and supporting documentation provided under subsection (1) above, the hearing officer shall grant the request for a hearing if he or she finds that the request raises a genuine and substantial question of law or fact.



- (4) Except as provided in (3) above, the hearing officer shall schedule and hold, as soon as practicable, a hearing at a time and place determined by the hearing officer.
- (5) Upon appointment, the hearing officer shall establish a hearing file. The file shall consist of the following:
  - (A) the determination issued by the Executive Officer which is the subject of the request for hearing;
  - (B) the request for hearing and the supporting documents that are submitted with it;
  - (C) all documents relating to and relied upon in making the determination to deny registration or to suspend or revoke registration; and
  - (D) correspondence and other documents material to the hearing.
- (6) The hearing file shall be available for inspection by the applicant at the office of the hearing officer.
- (7) An applicant may appear in person or may be represented by counsel or by any other duly-authorized representative.
- (8) The ARB may be represented by staff or counsel familiar with the registration program and may present rebuttal evidence.
- (9) Technical rules of evidence shall not apply to the hearing, except that relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to relying in the conduct of serious affairs. No action shall be overturned based solely on hearsay evidence, unless the hearsay evidence would be admissible in a court of law under a legally recognized exception to the hearsay rule.
- (10) The hearing shall be recorded either electronically or by certified shorthand reporter.
- (11) If a hearing is held, the hearing officer shall render a written decision within 30 working days from the last day of hearing. The hearing officer may do any of the following:
  - (A) uphold the denial, suspension, or revocation action as issued;
  - (B) reduce a revocation to a suspension;

- (C) increase a suspension to a revocation if the registration holder's conduct so warrants; and
  - (D) overturn a denial, suspension, or revocation in its entirety.
- (12) The hearing officer shall consider the totality of the circumstances of the denial, suspension, or revocation, including but not limited to credibility of witnesses, authenticity and reliability of documents, and qualifications of experts. The hearing officer may also consider relevant past conduct of the applicant including any prior incidents involving other ARB programs.
- (13) The hearing officer's written decision shall set forth findings of fact and conclusions of law as necessary.
- (b) Hearing conducted by written submission.
  - (1) In lieu of the hearing procedure set forth in (a), above, an applicant may request that the hearing be conducted solely by written submission.
  - (2) In such case the requestor must submit a written explanation of the basis for the appeal and provide supporting documents within 20 days of making the request. Subsequent to such a submission the following shall transpire:
    - (A) ARB staff shall submit a written response to the requestors submission and documents in support of the Executive Officer's action no later than 10 days after receipt of requestor's submission;
    - (B) The registration holder may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised;
    - (C) If the registration holder submits a rebuttal, ARB staff may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised; and
    - (D) the hearing officer shall be designated in the same manner as set forth in (a)(3) above. The hearing officer shall receive all statements and documents and render a written decision. The hearing officer's decision shall be mailed to the requestor no later than 30 working days after the final deadline for submission of papers.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.

§ 2465. Penalties.

Violation of the provisions of this article may result in a nuisance, civil, and/or criminal violations which may result in imprisonment and/or fines as specified by article 3 and referenced sections of the California Health and Safety Code.

NOTE: Authority cited: Section 39600-39601, 41752-41755, 43013(b), and 43018 of the Health and Safety Code. Reference: Section 41750-41755 of the Health and Safety Code.